

Attachment E

Certification of Nonattainment New
Source Review (NNSR) for Ozone

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Certification of Indiana's Serious Nonattainment New Source Review (NNSR) Plan for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS)

Pursuant to the requirements of Title 40, Part 51.165 in the Code of Federal Regulations (40 CFR 51.165) and Section 172(c)(5) of the Clean Air Act (CAA), Indiana has thoroughly reviewed its nonattainment new source review (NNSR) rules and certifies that they are at least as stringent as the NNSR state implementation plan (SIP) requirements of 40 CFR 51.165 as amended by the rule, *Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements* (80 FR 12264, March 6, 2015) (referred to hereafter as the 2008 ozone implementation rule).

Indiana's NNSR demonstration, under the moderate classification Section 182(b)(4) of the CAA, was fully approved by United States Environmental Protection Agency (U.S. EPA) on February 13, 2019, effective March 15, 2019 (84 FR 3711).¹

Indiana's nonattainment new source review (NNSR) rules are established in Title 326 of the Indiana Administrative Code, Article 2, Rule 3 (326 IAC 2-3) and have been fully approved by U.S. EPA as part of Indiana's SIP following all requirements for public participation. U.S. EPA approved the initial rules (94 FR 24837, October 7, 1994).² U.S. EPA approved amendments affecting 326 IAC 2-3-1, 326 IAC 2-3-2, and 326 IAC 2-3-3 to comply with federal rules for NSR Reform (67 FR 80186, December 31, 2002) (76 FR 40242, July 8, 2011)³, which have not been subsequently amended. Table 1 provides a summary of the requirements in 40 CFR 51.165 and Indiana's applicable rules at 326 IAC 2-3. Complete rules are contained in Indiana's air permit rules at 326 IAC 2. The rules can be viewed in their entirety online at http://iac.iga.in.gov/iac/iac_title?iact=326.

¹ https://www.in.gov/idem/airquality/files/lakeporter_ozone_2008_progress_plan_approval.pdf

² <https://www.gpo.gov/fdsys/pkg/FR-1994-10-07/html/94-24837.htm>.

³ <https://www.gpo.gov/fdsys/pkg/FR-2011-07-08/pdf/2011-17036.pdf>.

Table 1: 40 CFR 51.165 Requirements and Applicable NNSR Rules at 326 IAC 2-3

40 CFR 51.165	Applicable Indiana Regulation: 326 IAC 2-3	FR Approval of Indiana Regulation
<p>1. (a)(1)(iv)(A)(1)(i)-(iv) and (2): Major source thresholds for ozone – VOC and NO_x.</p> <p><i>Note: Indiana has never had a nonattainment area classified as Extreme for ground-level ozone. Therefore, (a)(1)(iv)(A)(1)(iv) and 2(vi) do not apply in Indiana.</i></p>	<p>326 IAC 2-3-1(z)(1) and (2) p.70</p>	<p>94 FR 24837 Approved: 8/25/1994, Published: 10/7/1994, Effective: 12/6/1994 <i>And</i> 76 FR 40242 Approved: 6/28/2011, Published: 7/8/2011, Effective: 9/6/2011</p>
<p>2. (a)(1)(iv)(A)(3): Change constitutes a major source by itself.</p>	<p>326 IAC 2-3-1(z)(5) p.71</p>	
<p>3. (a)(1)(v)(E): Significant net emissions increase of NO_x is significant for ozone.</p>	<p>326 IAC 2-3-1(y)(1) p.70</p>	
<p>4. (a)(1)(v)(F): Any emissions change of VOC in Extreme area triggers NNSR.</p>	<p>Indiana has never had a nonattainment area classified as Extreme for ground-level ozone.</p>	<p>N/A</p>
<p>5. (a)(1)(x)(A)-(C) and (E): Significant emissions rates for VOC and NO_x as ozone precursors.</p> <p><i>Note: Indiana has never had a nonattainment area classified as Extreme for ground-level ozone. Therefore, (a)(1)(x)(E) does not apply in Indiana.</i></p>	<p>326 IAC 2-3-1(pp) p.73</p>	<p>94 FR 24837 Approved: 8/25/1994, Published: 10/7/1994, Effective: 12/6/1994 <i>And</i> 76 FR 40242 Approved: 6/28/2011, Published: 7/8/2011, Effective: 9/6/2011</p>
<p>6. (a)(3)(ii)(C)(1)-(2): Provisions for emissions reduction credits.</p>	<p>326 IAC 2-3-3(b)(5) p.78</p>	<p>94 FR 24837 Approved: 8/25/1994, Published: 10/7/1994, Effective: 12/6/1994</p>

40 CFR 51.165	Applicable Indiana Regulation: 326 IAC 2-3	FR Approval of Indiana Regulation
7. (a)(8): Requirements for VOC apply to NO _x as ozone precursors.	326 IAC 2-3-1(y) p.70 326 IAC 2-3-2(a) and (b) p.74	94 FR 24837 Approved: 8/25/1994, Published: 10/7/1994, Effective: 12/6/1994 And 76 FR 40242 Approved: 6/28/2011, Published: 7/8/2011, Effective: 9/6/2011
8. (a)(9)(i)-(iii): Offset ratios for VOC and NO _x for ozone nonattainment areas. <i>Note: Subparagraphs (a)(9)(i)-(iii) were changed to (a)(9)(ii)-(iv) when U.S. EPA added new subparagraph (a)(9)(i) under the 2008 PM_{2.5} NSR Implementation Rule).</i>	326 IAC 2-3-3(a)(5)(B) p.78	
9. a(12): Anti-backsliding provision(s), where applicable. 40 CFR 51.165(a)(12) requires anti-backsliding requirements at 40 CFR 51.1105 to apply in any area designated nonattainment for the 1997 ozone NAAQS. Effective April 6, 2015, U.S. EPA revoked the 1997 8-hour ozone standard (80 FR 12264, March 6, 2015). There were no remaining nonattainment areas in Indiana under the standard at that time. Therefore, anti-backsliding requirements do not apply to Indiana for the 1997 8-hour ozone standard. Indiana's nonattainment NSR rules, codified at 326 IAC 2-3, remain consistent with federal ozone nonattainment NSR rules codified at 40 CFR 51.165 and CAA sections 172(c)(5), 173, 110(a)(2), 182(a)(4), 182(b)(5), and 182(c)(6), (7), (8), and (10). For a list of areas in Indiana that were designated nonattainment under the 1997 8-hour ozone NAAQS and dates associated with these classifications, please visit the Indiana Department of Environmental Management's (IDEM's) website: https://www.in.gov/idem/airquality/files/nonattainment_o3_1997_8hour.pdf .		

Based on a review of requirements in Indiana's rules at 326 IAC 2-3 and requirements of 40 CFR 51.165, Indiana's long standing and fully implemented NNSR program meets serious nonattainment requirements for the implementation of the 2008 8-hour ozone NAAQS. As such, IDEM certifies that state rules at 326 IAC 2-3 comply with NNSR SIP requirements in 40 CFR 51.165 and requests U.S. EPA's review and approval of this NNSR plan as an amendment to Indiana's SIP.

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